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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200834
Party	Plaintiff Chicago Cubs Baseball Club, LLC
Correspondence Address	MARY L KEVLIN COWAN LIEBOWITZ & LATMAN PC 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036 UNITED STATES sis@cjl.com, trademark@cjl.com, jmn@cjl.com
Submission	Motion to Consolidate
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Date	08/14/2013
Attachments	Consent Motion to Consolidate Opp Nos 91200834 and 91203117.pdf(254885 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

	x	
CHICAGO CUBS BASEBALL CLUB, LLC,	:	
Opposer,	:	
v.	:	
UNITED SERVICES AUTOMOBILE	:	Consolidated
ASSOCIATION,	:	Opposition No. 91200834
Applicant.	:	

	X	
CHICAGO CUBS BASEBALL CLUB, LLC,	:	
Opposer,	:	
v.	:	
UNITED SERVICES AUTOMOBILE	:	Consolidated
ASSOCIATION,	:	Opposition No. 91203117
Applicant.	:	

**MOTION ON CONSENT TO CONSOLIDATE OPPOSITION PROCEEDINGS
AND TO CONFORM OPPOSITION SCHEDULES**

Pursuant to Rule 511 of the Trademark Trial and Appeal Board Manual of Procedure and Fed. R. Civ. P. 42(a), Opposer, by and through counsel, hereby moves for an order consolidating Opposition Nos. 91200834 and 91203117. Opposer further requests that the schedule for the opposition proceedings be conformed by adopting the dates as set in the most recently instituted

of the cases being consolidated, i.e., the schedule set for Opposition No. 91203117. Counsel for Applicant has consented to this motion.

MEMORANDUM OF LAW

A. The Oppositions Should Be Consolidated Because They Contain Common Issues of Law and Fact

On July 22, 2011, Opposer filed an opposition to Applicant's application to register the mark C and Car Design for goods in International Class 36, as shown in Application Serial No. 85/037,368, (Opposition No. 91200834), and Applicant filed an answer thereto on July 3, 2013.

On December 22, 2011, Opposer Chicago Cubs Baseball Club, LLC, ("Opposer") filed an opposition to Applicant's application to register the mark C and Home Design for goods and services in International Class 36, as shown in Application Serial No. 85/060,475 (Opposition No. 91203117), and Applicant filed an answer thereto on August 2, 2013.

Both opposition proceedings involve identical parties, similar marks and involve common questions of fact and law for the Board to resolve, including the right to register Applicant's marks. Rule 511 of the Trademark Trial and Appeal Board Manual of Procedure provides that "[w]hen cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases." See also Fed. R. Civ. P. 42(a); Dating DNA LLC v. Imagini Holdings Ltd., 94 USPQ2d 1889, 1893 (T.T.A.B. 2010) (granting motion to consolidate proceedings involving identical parties, similar marks and related or identical issues) (ordering consolidation of two opposition proceedings because it was "equally advantageous to both parties in the avoidance of the duplication of effort, loss of time, and extra expense involved in conducting the proceedings alternately").

In addition, counsel for Applicant, Wendy C. Larson, agreed to the consolidation in a August 2, 2013 email to Mary L. Kevlin, counsel for Opposer.

B. Discovery And Trial Periods Should Be Conformed

Opposer, with Applicant's consent, further requests that the schedule for the opposition proceedings be conformed by adopting the dates as set in the most recently instituted of the cases being consolidated, i.e., the schedule set for Opposition No. 91203117, as set forth below:

Deadline for Discovery Conference :	09/02/2013
Discovery Opens :	09/02/2013
Initial Disclosures Due :	10/02/2013
Expert Disclosure Due :	01/30/2013
Discovery Closes :	03/01/2014
Plaintiff's Pretrial Disclosures :	04/15/2014
Plaintiff's 30-day Trial Period Ends :	05/30/2014
Defendant's Pretrial Disclosures :	06/14/2014
Defendant's 30-day Trial Period Ends :	07/29/2014
Plaintiff's Rebuttal Disclosures :	08/13/2014
Plaintiff's 15-day Rebuttal Period Ends :	09/12/2014

CONCLUSION

For the foregoing reasons, Opposition Nos. 91200834 and 91203117 and should be consolidated, and the schedule for the newly consolidated opposition proceeding should be conformed to the schedule set by the Board in Opposition No. 91203117.

Dated: New York, New York
August 14, 2013

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Don M. Obert/

Mary L. Kevlin
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Don M. Obert

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on August 14, 2013, I caused a true and complete copy of the foregoing MOTION ON CONSENT TO CONSOLIDATE OPPOSITION PROCEEDINGS AND TO CONFORM OPPOSITION SCHEDULES to be sent via First Class Mail, postage paid, to Applicant's Attorney and Correspondent of Record, Wendy C. Larson, Esq., Pirkey Barber PLLC, 600 Congress Ave., Suite 2120, Austin, Texas 78701.

Dated: New York, New York
August 14, 2013

/Don M. Obert/

Don M. Obert